IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2885 OF 1992
ALONGWITH
CRIMINAL APPLICATION NO.3031 OF 1992
ALONGWITH
CRIMINAL APPLICATION NO.3296 OF 1995

Shivkumar Morumal Bachani ...Applicant
(In all Applications)
Vs.
The State of Maharashtra ...Respondent
(In all Applications)

Shri A.S.Khandeparkar with Shri Santosh D. Raje for the Applicant in all Applications.
Mrs S.D.Shinde, A.P.P. for the Respondent-State in all Applications.

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 22, 2005.

P.C.:

1. These Applications under section 482 of the Code of Criminal Procedure, 1973 are by one Shivkumar Bachani who is arrayed as accused in Special Case No.27 of 1986 and Special Case No.08 of 1987. He is also an accused in Special Case No.51 of 1987.

2. After hearing Shri Khandeparkar appearing for the Applicant and Mrs Shinde, A.P.P. for the State, in my view, for the reasons that compelled me to accept the case of the Applicant Kishor Bachani who is the brother of the present Applicant, it will not be proper to interfere with the order of the Special

Judge refusing to discharge the Applicant from the Special Case. The materials produced by the prosecution in the Special Cases demonstrate that, primafacie, as a partner of the builder Firm together with the architect and the public servants concerned, the Applicant played a major role in getting the area of the property increased, the entries in the property extracts changed, making necessary applications and getting the plan sanctioned and ultimately, putting up construction thereon. As a builder and a person having experience in Real Estate the said Applicant has played an active part alongwith architect and others and therefore, it will not be fair to interfere with the order of the learned Special Judge refusing to discharge him from the Special Cases. The Special Cases are for bringing the accused including public servant to book for serious offences which affect public interest. Time and again the Hon'ble Supreme Court has taken a view that cases under Prevention of Corruption Act should not be interferred with in exercise of inherent powers at the stage of framing charges and they must be allowed to proceed. In the light of the above, Rule discharged in each of these Applications. The interim order passed by this court to stand vacated forthwith. The learned Special Judge is at liberty to proceed with the Special Cases and

dispose them of as expeditiously as possible.

3. All observations made by the learned Special Judge as far as the Applicant is concerned, are primafacie and shall not in any manner affect the merits of the case. Despite my reluctance to interfere with the order of the Special Judge, the Applicant is at liberty to raise all contentions on merits as are permissible in law.

JUDGE